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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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HOLLIDAY, JAIME MICHELE	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/517,740
Filing Date: July 06, 2005
Appellant(s): SONNENREIN ET AL.

Jong Lee
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 29, 2008 appealing from the Office action mailed January 25, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5734981	Kennedy, III et al.	3-1998
6,317,607 B1	Tomcik et al.	11-2001
6,091,945	Oka	7-2000

6,856,820 B1 Kolls 2-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. **Claims 14-22, 26-27, 37, 39 and 41** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kennedy, III et al. (5,734,981)** in view of **Tomcik et al. (US 6,317,607 B1)**.

Consider **claims 14 and 37**, Kennedy, III et al. clearly show and disclose method (system) for establishing a communication connection between a control center and a terminal which is situated in a motor vehicle (a call delivery system **10** (***communication connection***) for delivering a call to a mobile unit **12** (***terminal***) in a vehicle **14**, wherein a platform **18** (***control center***) receives a call

for the mobile unit and can generate a call back message for transmission to the mobile unit using the data communications network [abstract and col. 2 lines 9-24]), comprising: requesting, by a call by the control center, establishment of a connection to the terminal (sending, by the platform (**control center**) a message to a data transceiver **100** requesting the mobile unit to call the platform [col. 10 lines 13-15]); checking, by the terminal, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center (receiving the call back message which can automatically initiate a call back using mobile voice communications device **90** without operator intervention [fig. 6, col. 9 lines 30-50, col. 10 lines 15-17 and 22-24], *wherein the processor must "check" the call back message to determine where to call and how to initiate the communication*); in response to a determination that the connection to the control center is permitted to be established, automatically establishing, by the terminal, a communication connection to the control center (processor can automatically initiate a call back using mobile voice communications device **90** without operator intervention [fig. 6, col. 10 lines 15-17 and 22-24]); and transmitting data via the established communication connection (the delivered call may be a call to transfer data to the mobile unit [col. 9 lines 3-6 and 30-50]).

However, Kennedy, III et al. fail to specifically disclose that the mobile unit terminates the call from the platform before accepting it.

In the same field of endeavor, Tomcik et al. clearly show and disclose terminating, by the terminal, the call without accepting the call (a page message is received indicating a request for call initialization, the page message is examined to determine which communication mode is being requested by the incoming call, wherein if the communication mode of the incoming call does not match at least one of the selected communication modes, a page response message is transmitted rejecting the incoming call [abstract, col. 2 line 54- col. 3 line 10]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a wireless device determine if an incoming call is in a selected communication mode before accepting as taught by Tomcik et al. in the system of Kennedy, III et al. in order to successfully deliver call and complete in a communication system.

Consider **claim 15**, Kennedy, III et al. clearly show and disclose method for establishing a communication connection between a control center and a terminal (a call delivery system (***communication connection***) for delivering a call to a mobile unit in a vehicle wherein a platform (***control center***) receives a call for the mobile unit and can generate a call back message for transmission to the mobile unit using the data communications network [abstract and col. 2 lines 9-24]), comprising: transmitting, by the control center, a call to a selected terminal as a function of an external request (initiating, by the platform (***control center***), a call delivery process upon receiving a call from a caller for the mobile

unit [col. 7 lines 49-53 and 62-63]), and expecting a request for connection from the terminal after the terminal has performed the steps of (using the data communications network to communicate a call back message to the mobile network which can request the mobile unit to call the platform [col. 7 lines 49-53 and 62-63]); checking, by the terminal, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center (receiving the call back message which can automatically initiate a call back using mobile voice communications device **90** without operator intervention [fig. 6, col. 9 lines 30-50, col. 10 lines 15-17 and 22-24], *wherein the processor must "check" the call back message to determine where to call and how to initiate the communication*); and subsequently communicating data between the control center and the terminal (delivered call may be a call to transfer data to the mobile unit [col. 9 lines 3-6 and 30-50]).

However, Kennedy, III et al. fail to specifically disclose that the mobile unit terminates the call from the platform before accepting it.

In the same field of endeavor, Tomcik et al. clearly show and disclose terminating, by the terminal, the call without accepting the call (a page message is received indicating a request for call initialization, the page message is examined to determine which communication mode is being requested by the incoming call, wherein if the communication mode of the incoming call does not match at least one of the selected communication modes, a page response

message is transmitted rejecting the incoming call [abstract, col. 2 line 54- col. 3 line 10]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a wireless device determine if an incoming call is in a selected communication mode before accepting as taught by Tomcik et al. in the system of Kennedy, III et al. in order to successfully deliver and complete a call in a communication system.

Consider **claims 16 and 39**, Kennedy, III et al. clearly show and disclose method (system) for establishing a communication connection between a control center and a terminal which is situated in a motor vehicle (a call delivery system (***communication connection***) for delivering a call to a mobile unit (***terminal***) in a vehicle wherein a platform (***control center***) receives a call for the mobile unit and can generate a call back message for transmission to the mobile unit using the data communications network [abstract and col. 2 lines 9-24]), comprising: receiving, by the terminal, a call requesting establishment of a connection (receiving, via an antenna, the call back message from the platform (***control center***) [col. 10 lines 15-17] *wherein the call back message is requesting a call back to the platform*); checking, by the terminal, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center (receiving the call back message which can automatically initiate a call back using mobile voice communications device **90** without operator intervention [fig.

6, col. 9 lines 30-50, col. 10 lines 15-17 and 22-24], *wherein the processor must "check" the call back message to determine where to call and how to initiate the communication*); in response to a determination that the connection to the control center is permitted to be established, automatically establishing, by the terminal, a communication connection to the control center (automatically initiating, by the processor, a call back using mobile voice communications device without operator intervention [col. 10 lines 22-24]) *wherein the call back message can specify to call the platform or the caller directly*); and transmitting data via the established communication connection (delivered call may be a call to transfer data to the mobile unit [col. 8 lines 27-29 and col. 9 lines 3-6]).

However, Kennedy, III et al. fail to specifically disclose that the mobile unit terminates the call from the platform before accepting it.

In the same field of endeavor, Tomcik et al. clearly show and terminating, by the terminal, the call without accepting the call (a page message is received indicating a request for call initialization, the page message is examined to determine which communication mode is being requested by the incoming call, wherein if the communication mode of the incoming call does not match at least one of the selected communication modes, a page response message is transmitted rejecting the incoming call [abstract, col. 2 line 54- col. 3 line 10]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a wireless device determine if an incoming call is in a selected communication mode before accepting as taught by

Tomcik et al. in the system of Kennedy, III et al. in order to successfully deliver call in a communication system.

Consider **claim 17**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 14 above**, and in addition, Kennedy, III et al. further disclose a caller can initiate calls to a mobile unit using communications networks such as SMR, ESMR, PCS, or any other suitable link that allows a caller to direct a call to the platform, reading on the claimed "call is a call specified in a mobile wireless standard," (col. 6 lines 15-21). The mobile voice communications device of the mobile unit can receive a call over the mobile communications network to download data to the processor, reading on the claimed "communication connection is established via a mobile wireless network," (col. 9 lines 7-9).

Consider **claim 18**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 17 above**, and in addition, Kennedy, III et al. further disclose that the delivered call to the mobile unit is a traditional voice call, reading on the claimed "call is one of a telephone call and a data call," (col. 9 lines 3-4).

Consider **claim 19**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 15 above**, and in addition, Kennedy, III et al. further disclose a caller can initiate calls to a mobile unit using communications networks such as SMR, ESMR, PCS, or any other suitable link that allows a caller to direct a call to the platform, reading on the

claimed "call is a call specified in a mobile wireless standard," (col. 6 lines 15-21). The mobile voice communications device of the mobile unit can receive a call over the mobile communications network to download data to the processor, reading on the claimed "communication connection is established via a mobile wireless network," (col. 9 lines 7-9).

Consider **claim 20**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 19 above**, and in addition, Kennedy, III et al. further disclose that the delivered call to the mobile unit is a traditional voice call, reading on the claimed "call is one of a telephone call and a data call," (col. 9 lines 3-4).

Consider **claim 21**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 16 above**, and in addition, Kennedy, III et al. further disclose a caller can initiate calls to a mobile unit using communications networks such as SMR, ESMR, PCS, or any other suitable link that allows a caller to direct a call to the platform, reading on the claimed "call is a call specified in a mobile wireless standard," (col. 6 lines 15-21). The mobile voice communications device of the mobile unit can receive a call over the mobile communications network to download data to the processor, reading on the claimed "communication connection is established via a mobile wireless network," (col. 9 lines 7-9).

Consider **claim 22**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 21 above**, and in

addition, Kennedy, III et al. further disclose that the delivered call to the mobile unit is a traditional voice call, reading on the claimed "call is one of a telephone call and a data call," (col. 9 lines 3-4).

Consider **claim 26**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 15 above**, and in addition, Kennedy et al. further disclose a communications link is established in response to call delivery information, which is generated at the mobile unit, being received by the platform, reading on the claimed "communication connection is established automatically by the terminal dialing into a network," (col. 2 lines 30-32).

Consider **claim 27**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 16 above**, and in addition, Kennedy et al. further disclose a communications link is established in response to call delivery information, which is generated at the mobile unit, being received by the platform, reading on the claimed "communication connection is established automatically by the terminal dialing into a network," (col. 2 lines 30-32).

4. **Claims 23-25 and 28-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kennedy, III et al. (5,734,981)** in view of **Tomcik et al. (US 6,317,607 B1)**, and in further view of **Oka (6,091,945)**.

Consider **claim 23**, and **as applied to claim 14 above**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention except that the mobile unit (***terminal***) checks the request of the call back message based on a telephone number or transmitted data.

In the same field of endeavor, Oka clearly shows a discloses an authentication method for a radio communication system including a plurality of base stations (***control centers***) and radio communication terminals (***terminals***) with stored identification data different from the other terminals, (abstract and col. 3 line 63- col. 4 line 3). A mobile station makes a call and transmits a fixed ID and variable ID set of its station and the receiver's telephone number. It is known in the art that communication between mobile devices in a wireless communication is sent through a base station or a similar structure. Once the fixed ID, variable ID and receiver's telephone number is received by the called mobile station, it authenticates the mobile station based on the fixed ID and variable ID, reading on the claimed "checking the request in the terminal based on one of a telephone number of a requestor and transmitted data," (figure 7).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a mobile station to authenticate the caller using its ID before confirming a connection as taught by Oka in the system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and completer a call in a communication system.

Consider **claim 24**, and **as applied to claim 15 above**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention except that the mobile unit checks the request of the call back message based on a telephone number or transmitted data.

In the same field of endeavor, Oka clearly shows a discloses an authentication method for a radio communication system including a plurality of base stations (***control center***) and radio communication terminals (***terminal***) with stored identification data different from the other terminals, (abstract and col. 3 line 63- col. 4 line 3). A mobile station makes a call and transmits a fixed ID and variable ID set of its station and the receiver's telephone number. It is known in the art that communication between mobile devices in a wireless communication is sent through a base station or a similar structure. Once the fixed ID, variable ID and receiver's telephone number is received by the called mobile station, it authenticates the mobile station based on the fixed ID and variable ID, reading on the claimed "checking the request in the terminal based on one of a telephone number of a requestor and transmitted data," (figure 7).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a mobile station to authenticate the caller using its ID before confirming a connection as taught by Oka in the system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and complete a call in a communication system.

Consider **claim 25**, and **as applied to claim 16 above**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention except that the mobile unit checks the request of the call back message based on a telephone number or transmitted data.

In the same field of endeavor, Oka clearly shows a discloses an authentication method for a radio communication system including a plurality of base stations (***control center***) and radio communication terminals (***terminal***) with stored identification data different from the other terminals, (abstract and col. 3 line 63- col. 4 line 3). A mobile station makes a call and transmits a fixed ID and variable ID set of its station and the receiver's telephone number. It is known in the art that communication between mobile devices in a wireless communication is sent through a base station or a similar structure. Once the fixed ID, variable ID and receiver's telephone number is received by the called mobile station, it authenticates the mobile station based on the fixed ID and variable ID, reading on the claimed "checking the request in the terminal based on one of a telephone number of a requestor and transmitted data," (figure 7).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a mobile station to authenticate the caller using its ID before confirming a connection as taught by Oka in the system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and complete call in a communication system.

Consider **claim 28**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 14 above**, and in addition, Kennedy, III et al. clearly disclose that when the antenna receives the call back message and passes it through transceiver and controller to processor, an output device **124**, at the direction of the processor, can notify the operator of the mobile unit to place the requested call. The operator can manually input the phone number using an input device or a handset, reading on the claimed "the terminal terminating the call and subsequently establishing a connection," (col. 10 lines 15-19 and 25-27).

However, Kennedy, III et al., as modified by Tomcik et al., do not specifically show and disclose that the mobile unit checks the request of the call back message.

In the same field of endeavor, Oka clearly shows a discloses an authentication method for a radio communication system including a plurality of base stations (***control center***) and radio communication terminals (***terminal***) with stored identification data different from the other terminals, (abstract and col. 3 line 63- col. 4 line 3). A mobile station makes a call and transmits a fixed ID and variable ID set of its station and the receiver's telephone number. It is known in the art that communication between mobile devices in a wireless communication is sent through a base station or a similar structure. Once the fixed ID, variable ID and receiver's telephone number is received by the called mobile station, it authenticates the mobile station based on the fixed ID and

variable ID, reading on the claimed "checking the request in the terminal based on one of a telephone number of a requestor and transmitted data," (figure 7).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a mobile station to authenticate the caller using its ID before confirming a connection as taught by Oka in the system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and complete a call in a communication system.

Consider **claim 29**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 15 above**, and in addition, Kennedy, III et al. clearly disclose that when the antenna receives the call back message and passes it through transceiver and controller to processor, an output device, at the direction of the processor, can notify the operator of the mobile unit to place the requested call. The operator can manually input the phone number using an input device or a handset, reading on the claimed "the terminal terminating the call and subsequently establishing a connection," (col. 10 lines 15-19 and 25-27).

However, Kennedy, III et al., as modified by Tomcik et al., do not specifically show and disclose that the mobile unit checks the request of the call back message.

In the same field of endeavor, Oka clearly shows a discloses an authentication method for a radio communication system including a plurality of base stations (***control center***) and radio communication terminals (***terminal***)

with stored identification data different from the other terminals, (abstract; col. 3 line 63- col. 4 line 3). A mobile station makes a call and transmits a fixed ID and variable ID set of its station and the receiver's telephone number. It is known in the art that communication between mobile devices in a wireless communication is sent through a base station or a similar structure. Once the fixed ID, variable ID and receiver's telephone number is received by the called mobile station, it authenticates the mobile station based on the fixed ID and variable ID, reading on the claimed "checking the request in the terminal based on one of a telephone number of a requestor and transmitted data," (figure 7).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a mobile station to authenticate the caller using its ID before confirming a connection as taught by Oka in the system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and complete a call in a communication system.

Consider **claim 30**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention **as applied to claim 16 above**, and in addition, Kennedy, III et al. clearly disclose that when the antenna receives the call back message and passes it through transceiver and controller to processor, an output device, at the direction of the processor, can notify the operator of the mobile unit to place the requested call. The operator can manually input the phone number using an input device or a handset, reading on the claimed "the

terminal terminating the call and subsequently establishing a connection," (col. 10 lines 15-19 and 25-27).

However, Kennedy, III et al., as modified by Tomcik et al., do not specifically show and disclose that the mobile unit checks the request of the call back message based on one of a telephone number of a requestor and transmitted data.

In the same field of endeavor, Oka clearly shows a discloses an authentication method for a radio communication system including a plurality of base stations (***control center***) and radio communication terminals (***terminal***) with stored identification data different from the other terminals, (abstract and col. 3 line 63- col. 4 line 3). A mobile station makes a call and transmits a fixed ID and variable ID set of its station and the receiver's telephone number. It is known in the art that communication between mobile devices in a wireless communication is sent through a base station or a similar structure. Once the fixed ID, variable ID and receiver's telephone number is received by the called mobile station, it authenticates the mobile station based on the fixed ID and variable ID, reading on the claimed "checking the request in the terminal based on one of a telephone number of a requestor and transmitted data," (figure 7).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a mobile station to authenticate the caller using its ID before confirming a connection as taught by Oka in the

system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and completer a call in a communication system.

5. **Claims 31, 33-36, 38 and 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kennedy, III et al. (5,734,981)** in view of **Tomcik et al. (US 6,317,607 B1)**, and in further view of **Kolls (US 6,856,820 B1)**.

Consider **claim 31**, and **as applied to claim 14 above**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention except that the communication between the mobile unit and platform is of a client-server communication type.

In the same field of endeavor, Kolls clearly shows and discloses an in-vehicle device that data communicates over the Internet by way if a TCP/IP connection, reading on the claimed "communication between the terminal and control center takes place according to a standardized client-server communication type," (abstract and col. 16 lines 51-55).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the in-vehicle device to use TCP/IP communications as taught by Kolls in the system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and completer calls between devices in a communication system.

Consider **claim 33**, and **as applied to claim 15 above**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention

except that the communication between the mobile unit and platform is of a client-server communication type.

In the same field of endeavor, Kolls clearly shows and discloses an in-vehicle device that data communicates over the Internet by way if a TCP/IP connection, reading on the claimed "communication between the terminal and control center takes place according to a standardized client-server communication type," (abstract and col. 16 lines 51-55).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the in-vehicle device to use TCP/IP communications as taught by Kolls in the system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and complete calls between devices in a communication system.

Consider **claim 34**, the combination of Kennedy, III et al. and Tomcik et al., as modified by Kolls, clearly show and disclose the claimed invention **as applied to claim 33 above**, and in addition, Kolls clearly disclose an in-vehicle device **200** with a microcontroller **234** that is interconnected with a PDA interface **222** that can be implemented utilizing wireless standards such as WAP, reading on the claimed "communication takes place according to WAP," (col. 31 line 66-col. 31 line 12).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the in-vehicle device to use WAP communications as taught by Kolls in the system of Kennedy, III et al., as

modified by Tomcik et al., in order to successfully deliver and complete calls between devices in a communication system.

Consider **claim 35**, and **as applied to claim 16 above**, Kennedy, III et al., as modified by Tomcik et al., clearly show and disclose the claimed invention except that the communication between the mobile unit and platform is of a client-server communication type.

In the same field of endeavor, Kolls clearly shows and discloses an in-vehicle device that data communicates over the Internet by way if a TCP/IP connection, reading on the claimed "communication between the terminal and control center takes place according to a standardized client-server communication type," (abstract and col. 16 lines 51-55).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the in-vehicle device to use TCP/IP communications as taught by Kolls in the system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and complete calls between devices in a communication system.

Consider **claim 36**, the combination of Kennedy, III et al. and Tomcik et al., as modified by Kolls, clearly show and disclose the claimed invention **as applied to claim 35 above**, and in addition, Kolls clearly disclose an in-vehicle device with a microcontroller that is interconnected with a PDA interface that can be implemented utilizing wireless standards such as WAP, reading on the

claimed "communication takes place according to WAP," (col. 31 line 66- col. 31 line 12).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the in-vehicle device to use WAP communications as taught by Kolls in the system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and complete calls between devices in a communication system.

Consider **claim 38**, Kennedy, III et al. clearly show and disclose a call delivery system (***communication connection***) for delivering a call to a mobile unit in a vehicle which includes both a data communications network and a mobile voice communications network. A platform (***control center***) receives a call for the mobile unit (***terminal***) and can generate a call back message for transmission to the mobile unit using the data communications network, reading on the claimed "system for establishing a communication connection between a control center and a terminal," and the delivered call may be a call to transfer data, reading on the claimed "data being transmitted via the established communication connection," (abstract, col. 9 lines 3-6), comprising: a platform initiating a call delivery process upon receiving a call from a caller for the mobile unit, reading on the claimed "a control center including an arrangement configured to place a call to a selected terminal based on an external request," (col. 7 lines 49-51), and using the data communications network to communicate a call back message to the mobile network which can request the mobile unit to

call the platform, reading on the claimed "to expect a request to establish a for connection from the terminal, after the terminal has performed the steps of terminating the call without accepting the call; checking, on the basis of data delivered by the call, whether a connection to the control center is permitted to be established, and in response to a determination that the connection to the control center is permitted to be established," (col. 7 lines 49-53 and 62-63) *wherein the call back message can specify to call the platform or the caller directly*.

However, Kennedy, III et al. fail to specifically disclose that the mobile unit terminates the call from the platform before accepting it.

In the same field of endeavor, Tomcik et al. clearly show and disclose a method for rejecting a request for call initialization. When a page message is received by the wireless communication device indicating a request for call initialization, or availability of an incoming call, the page message is examined to determine which communication mode is being requested by the incoming call. If the communication mode of the incoming call does not match at least one of the selected communication modes, a page response message is transmitted rejecting the incoming call, reading on the claimed "terminating, by the terminal, the call without accepting the call," (abstract, col. 2 line 54- col. 3 line 10).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow a wireless device determine if an incoming call is in a selected communication mode before accepting as taught by

Tomcik et al. in the system of Kennedy, III et al. in order to successfully deliver and complete a call in a communication system.

However, Kennedy, III et al., as modified by Tomcik et al., do not specifically disclose that the communication between the mobile unit and platform is of a client-server communication type.

In the same field of endeavor, Kolls clearly shows and discloses an in-vehicle device that data communicates over the Internet by way if a TCP/IP connection, reading on the claimed "communication between the terminal and control center takes place according to a standardized client-server communication type," (abstract and col. 16 lines 51-55).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the in-vehicle device, reading on the claimed "terminal which is situated in a motor vehicle," to use TCP/IP communications as taught by Kolls in the system of Kennedy, III et al., as modified by Tomcik et al., in order to successfully deliver and complete calls between devices in a communication system.

6. **Claim 32** is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of **Kennedy, III et al. (5,734,981)** and **Tomcik et al. (US 6,317,607 B1)**, in view of **Oka (6,091,945)**, and in further view of **Kolls (US 6,856,820 B1)**.

Consider **claim 32**, and **as applied to claim 29 above**, the combination of Kennedy, III et al. and Tomcik et al., as modified by Oka, clearly show and

disclose the claimed invention except that the communication between the platform and the mobile unit is implemented using WAP.

In the same field of endeavor, Kolls clearly shows and discloses an in-vehicle device that data communicates with Internet based data processing resources. The in-vehicle device includes a microcontroller that is interconnected with a PDA interface that can be implemented utilizing wireless standards such as WAP, reading on the claimed "communication takes place according to WAP," (abstract, col. 29 line 66- col. 30 line 12).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow the in-vehicle device to use WAP communications as taught by Kolls in the combination of Kennedy, III et al. and Tomcik et al., as modified by Oka, in order to successfully deliver and complete calls between devices in a communication system.

(10) Response to Argument

SUMMARY OF ARGUMENTS/RESPONSE

Appellants basically argue the motivation to incorporate the teachings of Tomcik into the method of Kennedy does not make any sense.

Examiner disagrees, because both references, Kennedy, II et al., and Tomcik et al., teach call initialization and delivery, with alternative embodiments to complete calls.

Appellants basically argue there is no suggestion in Tomcik et al., that the page message indicates any intent to connect to a control center.

Examiner disagrees, primarily because the Tomcik reference was incorporated to teach the limitation “terminating, by the terminal, the call without accepting the call." Further, the page message of Tomcik is used for call initialization wherein a call is completed via a base station (control center).

Appellants basically argue that Kennedy is not intended to create a separate connection to another device, let alone to a control center.

Examiner disagrees, because the delivery of the call back message of Kennedy would read on the argued “first connection,” and the actual call back to the platform from the mobile unit would read on the argued “second connection.”

DETAILED DESCRIPTION OF ARGUMENTS/RESPONSE

Appellants basically argue that that the Examiner's arguments do not make any sense, to the extent the Examiner contends that "Tomcik et al. is only used to overcome the limitation 'terminating, by the terminal, the call without accepting the call'" (Advisory Action), there are several critical flaws. Not only is the Examiner attempting to

incorporate the "rejecting-a-call" teaching of Tomcik into the system of Kennedy completely out of context, but the asserted combination clearly ignores the fundamentally incompatible teachings of Kennedy and Tomcik. In this regard, the Supreme Court has clearly indicated that it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements" in the manner claimed, see KSR Int'l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007), and that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id., at 1396. Applicants note that the Examiner's explanations in support of the combination of Kennedy and Tomcik simply do not satisfy the level of reasoning required by the Supreme Court. Tomcik describes rejecting a call when a communication mode thereof has not been selected, after which rejection no further connection of any kind is made. Kennedy, on the other hand, clearly deals with coupling calls as acknowledged by the Examiner, and there is simply no suggestion in Kennedy that rejecting a call as a matter of standard operating procedure as claimed in present claims, let alone any suggestion regarding how such rejection of a call as a matter of standard operating procedure would provide any benefit to the disclosed system of Kennedy. Further, Appellants argue that “determining if an incoming call is in a selected communication mode,” is completely unrelated to the operation of the system of Kennedy, i.e., successful delivery of a call in Kennedy is not dependent on determining "if an incoming call is in a selected communication mode," and there is simply no logical reason why one of ordinary skill art

would add to the operation of Kennedy the step of terminating the call without accepting the call, in combination with coupling calls to complete a call delivery.

In response to applicant's argument that there is simply no logical reason why one of ordinary skill art would add to the operation of Kennedy the step of terminating the call without accepting the call, in combination with coupling calls to complete a call delivery, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references, Kennedy, II et al. and Tomcik et al., teach call initialization and delivery. Kennedy, III et al. explicitly discusses coupling calls, while Tomcik et al. implicitly discusses such feature, wherein if the communication modes match, then the call is completed (Tomcik et al.; abstract). Also, Tomcik et al. explicitly discusses call terminal, while Kennedy, III et al. implicitly discusses such a feature, wherein if the call

back message includes a direct phone number for the mobile unit to connect to, the call delivering the message is disconnected (Kennedy, III et al.; fig. 6). Examiner further disagrees, because the modes of the Tomcik reference relate to for example, data and voice communications. The mobile unit of the Kennedy reference communicates using both voice and data communication networks. The mobile unit may use the voice communication network for a voice call, while data may be transferred using a data communication network, therefore implicitly teaching different modes of communication. Additionally, claimed steps (a), (b) and (c) are not in a conditional and/or ordered relationship.

Appellants also argue that there is no suggestion in Tomcik et al. that the page message indicates any indicates any intent to connect to a control center; instead, the instead, the page message is only used by a mobile device to determine whether or not an incoming call from a second mobile device matches selected communication modes (voice and data modes). If there is a match, the call is accepted; if there is no match, the call is rejected. It is the second mobile device's attempt to engage the mobile device in communication which is conveyed by the page message, not whether the call is intended to initiate a connection, to the control center. In the Advisory Action, the Examiner simply reiterates the statement that "Tomcik discloses receiving a page message which is a request for call initialization (call is at least one of intended to initiate a connection to the control center)," but there is simply no basis for this assertion, and the Examiner does not provide any supporting citation for this assertion. Appellants further argue it does not logically follow that the mobile device receiving the

page checks whether the call is intended to initiate a connection to a control center, and indeed there is no need for such checking since (according to the Examiner's logic) the control center would always be involved in the handling of the page message. In any case, there is simply no suggestion in Tomcik that any checking of whether the call is intended to initiate a connection to a control center is performed by the terminal "on the basis of data delivered by the call."

Examiner contends that the Kennedy reference is used to clearly teach the above-mentioned limitations, and the discussion in After Final dated 7/1/08 was just to address Appellants arguments dated 4/7/08. Although, Kennedy et al. discusses checking whether the call is intended to initiate a connection to a control center, Examiner maintains that Tomcik et al. disclose receiving a page message which is a request for call initialization (call is at least one of intended to initiate a connection to the control center), and that a general page message is transmitted informing a device of an incoming call, and another page message informing the device of a traffic channel to receive the call. Since the page messages are used for various functions, the wireless device has to determine what the incoming page message pertains to, and the pages are received from a network element (base station) and not from a second mobile station as in peer-to-peer communication.

Appellants further argue that in contrast, the call back message operation disclosed in Kennedy is not intended to create a separate connection to another device, let alone to a control center. The call back messages of Kennedy are transmitted by a platform 18 to a mobile unit 12 when a caller 36 calls the mobile unit 12. If the mobile

unit 12 decides to call the platform 18, the call from the caller 36 and the call from the mobile unit 12 are coupled to complete call delivery. Thus, the call back message and the call produced by the mobile unit 12 in response to the call back message of Kennedy are actually part of the same call, rather than a connection separate from the call itself as provided for in claim 14. To the extent the Examiner contends that "the features upon which applicant relies (i.e., separate/multiple connections) are not recited in the rejected claim(s)," and that "Applicants only claim connection between the called party and a control center," these contentions are clearly incorrect: claim 14 clearly recites that "the call" by the control center is terminated by the terminal, and subsequently "a communication connection to the control center" is established by the terminal in response to a determination that the connection to the control center is permitted to be established," which "communication connection to the control center" logically has to be separate and distinct from "the call" which was terminated. Based on simple logic, there is no reasonable interpretation of claim 14 that would support the conclusion that "the call" by the control center, which is terminated by the terminal, is not separate from "a communication connection to the control center" which is established by the terminal in response to a determination that the connection to the control center is permitted to be established.

Examiner respectfully disagrees, because as discussed above, the Tomcik reference teaches "terminating, by the terminal, the call without accepting the call." Further, claim 14 lacks the conditional relationship claim language wherein a communication connection to the control center is subsequent to the call be terminated.

Although this particular feature is argued, it is not recited in claim 14. Also, Kennedy, III et al. do suggest a termination, not explicitly, wherein the call back message, when it includes a direct number to a caller, is disconnected (see fig. 6). The call back message, in and of itself is not a connection, but rather the delivery of the call back message would read on the argued "first connection," and the actual call back to the platform from the mobile unit would read on the argues "second connection." At the platform, the connection between the caller and the platform, and the connection between the mobile unit and the platform are coupled to complete the call.

Appellants additionally argue that the Oka and Kolls references do not remedy the deficiencies of the Kennedy and Tomcik references as applied to the independent claims. Examiner contends that these secondary references were not incorporated to overcome the above-mentioned limitations.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jaime M Holliday/

Examiner, Art Unit 2617

Conferees:

Nick Corsaro

/NICK CORSARO/

Supervisory Patent Examiner, Art Unit 2617

Charles Appiah

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617